

## **REMARKS**

### **Introductory Comments**

In the September 13, 2002 Office Action, the Examiner rejected claims 1-4, 7, 9-13, 15 and 17, and objected to claims 5, 6, 8 and 16. Applicants acknowledge with appreciation the Examiner's indication that claims 5, 6, 8 and 16 would be allowable if rewritten into independent form. By this Amendment, Applicants have amended claims 9 and 13 and added new claims 18-20. Claims 1-13 and 18-20 are pending, with claim 14 being withdrawn.

### **Rejection of Claims 9 and 13 Under 35 U.S.C. § 112, second paragraph**

Claims 9 and 13 are amended solely to overcome the 112 rejection, and not to narrow the scope of the claims. Applicants respectfully request that these rejections be withdrawn.

### **Rejection of Claims 1, 7 and 17 Under 35 U.S.C. § 102(b)**

Claims 1, 7 and 17 were rejected as being anticipated by Matsumoto (JP 4-361575). Matsumoto does not anticipate claim 1 because Matsumoto does not disclose, teach or suggest an electrical connector that is "arranged and is passed out between the two mutually facing surfaces of the piezoelectric layers," as particularly recited in claim 1.

On the contrary, Matsumoto teaches that connectors 21 and 21' do not pass between ceramic layers 1, as shown in Fig. 3. Fig. 3 clearly shows that the connectors 21 and 21' do not pass between the ceramic layers, as claimed.

Claims 7 and 17 depend from independent claim 1, which, as discussed above, Applicants believe to be allowable over the prior art of record. Accordingly, Applicants respectfully request that claims 1, 7 and 17 be allowed.

### **Rejection of Claim 2 Under 35 U.S.C. § 102(b)**

Claim 2 was rejected as being anticipated by Okawa et al. (U.S. 5,459,371). The Examiner's rejection rests on the assumption that "the method of forming a device (e.g. diffusion welding) is not germane to the issue of patentability of the device itself." (Office Action, page 4). On the contrary, the diffusion welding is an essential feature of claim 2, because the claimed diffusion welding results in a desired homogenous electrode layer. (See e.g., Applicants' specification, page 2 line 28-page 3 line 11; page 8 lines 21-38; page 13 lines 1-5).

Okawa et al. does not disclose, teach or suggest diffusion welding or any other technique for achieving the desired homogenous electrode layer. Accordingly, claim 2 is patentable over Okawa et al.

**Rejection of Claims 3, 4, 9-13 and 15 Under 35 U.S.C. § 103(a)**

Claims 3, 4, 9-13 and 15 depend from independent claim 1, which, as discussed above, Applicants believe to be allowable over the prior art of record. Additionally, with respect to claims 9 and 10, the cited references do not even mention a Curie temperature at all, let alone “a Curie temperature of more than 400°C” as claimed.

Further, with respect to claim 15, neither Butcher et al. nor Matsumoto provide the necessary teaching, suggestion or motivation for the claimed level limit switch, because neither reference even hints at a level limit switch of the type of claim 15. The combination of Butcher et al. with Matsumoto to reject claim 15 is therefore improper hindsight reasoning. Accordingly, Applicants respectfully request that claims 3, 4, 9-13 and 15 be allowed.

**New Claims 18-20**

Claim 18 is added to recapture subject matter deleted from claim 9 in response to the 112 rejection. Claim 19 recites subject matter of claim 3, but depends from claim 2. Claim 20 recites subject matter of claims 12 and 13. Applicants submit that all of new claims 18-20 are patentable over the cited references, for the reasons discussed above.

**Final Remarks**

Claims 1-13 and 15-20 of the above-noted application are believed to be in condition for allowance. Applicants respectfully request that the Examiner so find and issue a Notice of Allowance in due course. The Examiner is asked to call Applicant’s attorneys, James A. Coles, at 317-684-5282, or Christine Orich, at 317-684-5414, to address any outstanding issues in order to expedite the prosecution of this application for all parties.

If necessary, Applicants request that this Response be considered a request for an extension of time for a time appropriate for the response to be timely filed. Applicants request that any required fees needed beyond those submitted with this Response be charged to the account of Bose McKinney & Evans LLP, Deposit Account Number 02-3223.

Respectfully submitted,

BOSE McKINNEY & EVANS LLP

  
Christine M. Orich  
Reg. No. 44,987

Indianapolis, Indiana  
(317) 684-5000

448671\_3